

### **REMARKS**

The applicant respectfully requests reconsideration in view of the amendments and the following remarks. The applicant has amended the claims as suggested by the Examiner in order to overcome the 35 U.S.C. 112, second paragraph rejections. The applicant has rewritten claim 21 into the independent form as newly added claim 29. The applicant has rewritten claim 23 into the independent form as newly added claim 30 and deleted the multiple dependencies. In addition, the applicant has added the abstract as suggested by the Examiner. Support for the abstract can be found in claim 1 and in the PCT abstract. The applicant has enclosed the abstract on a separate sheet. No fee is believed to be due for the two claims added.

Claims 1-19 and 21-28 are rejected under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-19 and 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by WO2004/108857 (Nii). The applicant respectfully traverses this rejection.

#### **Rejections under 35 U.S.C. 112**

Claims 1-19 and 21-28 are rejected under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant believes that the claims as amended are in compliance with 35 U.S.C. 112, second paragraph. For the above reasons, this rejection should be withdrawn.

#### **Rejections under 35 U.S.C. 102(e)**

Claims 1-19 and 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Nii. Nii was filed as a PCT on June 1, 2004. The applicant has enclosed a certified English

translation of their priority document DE 103 50 722.1 filed on October 30, 2003. The applicant believes that they are entitled to the filing date of October 30, 2003 which would antedate Nii. For the above reasons, this rejection should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

**The applicant respectfully requests that claim 20 be rejoined. However, if the Examiner will not rejoin claim 20 the applicant authorize the Examiner to cancel claim 20. The applicant then would reserve the right to file a divisional application on claim 20.**

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00003-US from which the undersigned is authorized to draw.

Dated: August 21, 2009

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/  
Ashley I. Pezzner  
Registration No.: 35,646  
CONNOLLY BOVE LODGE & HUTZ LLP  
1007 North Orange Street  
P. O. Box 2207  
Wilmington, Delaware 19899-2207  
(302) 658-9141  
(302) 658-5614 (Fax)  
Attorney for Applicant

Enclosure: English Certified Translation of Priority Document